

Senate File 361

S-3077

1 Amend Senate File 361 as follows:

2 1. By striking page 1, line 11, through page 2, line 11, and  
3 inserting:

4 <(1) If a confirmed positive test result for drugs or  
5 alcohol for a current employee is reported to the employer  
6 by the medical review officer, the employer shall notify  
7 the employee in writing by certified mail, return receipt  
8 requested, of the results of the test, the employee's right  
9 to request and obtain a confirmatory test of the second  
10 sample collected pursuant to paragraph "b" at an approved  
11 laboratory of the employee's choice, and the fee payable by  
12 the employee to the employer for reimbursement of expenses  
13 concerning the test. The fee charged an employee shall be an  
14 amount that represents the costs associated with conducting  
15 the second confirmatory test, which shall be consistent with  
16 the employer's cost for conducting the initial confirmatory  
17 test on an employee's sample. If the employee, ~~in person~~  
18 ~~or~~ by certified mail, return receipt requested, requests a  
19 second confirmatory test, identifies an approved laboratory to  
20 conduct the test, and pays the employer the fee for the test  
21 within seven days from the date the employer mails by certified  
22 mail, return receipt requested, the written notice to the  
23 employee of the employee's right to request a test, a second  
24 confirmatory test shall be conducted at the laboratory chosen  
25 by the employee. The results of the second confirmatory test  
26 shall be reported to the medical review officer who reviewed  
27 the initial confirmatory test results and the medical review  
28 officer shall review the results and issue a report to the  
29 employer on whether the results of the second confirmatory test  
30 confirmed the initial confirmatory test as to the presence of  
31 a specific drug or alcohol. If the results of the second test  
32 do not confirm the results of the initial confirmatory test,  
33 the employer shall reimburse the employee for the fee paid by  
34 the employee for the second test and the initial confirmatory  
35 test shall not be considered a confirmed positive test result

1 for drugs or alcohol for purposes of taking disciplinary action  
2 pursuant to subsection 10. In lieu of certified mail, return  
3 receipt requested, an employer may offer an employee the option  
4 to receive notifications and make requests as provided in this  
5 subparagraph by in-person exchange of written materials or by  
6 electronic notification. The employee may choose to receive  
7 notifications and make requests by one of these methods or may  
8 choose to receive notifications and make requests by certified  
9 mail, return receipt requested.>

10 2. Page 2, by striking lines 13 through 33 and inserting  
11 <Code 2021, is amended by adding the following new  
12 subparagraph:

13 NEW SUBPARAGRAPH. (5) In lieu of certified mail, return  
14 receipt requested, an employer may offer an employee,  
15 prospective employee, or parent of a minor who is an employee  
16 or prospective employee the option to receive copies and  
17 notices as provided in subparagraph (1) or (2) by in-person  
18 exchange of written materials or by electronic notification.  
19 The employee, prospective employee, or parent of a minor who  
20 is an employee or prospective employee may choose to receive  
21 copies and notices by one of these methods or may choose to  
22 receive copies and notices by certified mail, return receipt  
23 requested.>

24 3. Page 3, line 10, by striking <clear and convincing> and  
25 inserting <a preponderance of the>

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ZACH WHITING